

BEFORE  
THE PUBLIC SERVICE COMMISSION OF  
SOUTH CAROLINA  
DOCKET NO. 90-340-T - ORDER NO. 90-1081✓

November 8, 1990

IN RE: Application of Eddie P. Carter	)	
d/b/a Carter Trucking Company,	)	
1604 Carter Road, Ninety Six,	)	ORDER GRANTING
SC 29666, for a Class F Certifi-	)	CERTIFICATE
cate of Public Convenience and	)	
Necessity.	)	

This matter comes before the Public Service Commission of South Carolina (the Commission) by way of an Application filed April 16, 1990, by Eddie P. Carter d/b/a Carter Trucking Company (the Applicant) for a Class F Certificate of Public Convenience and Necessity to render motor freight service over irregular routes and on irregular schedules as follows:

DRY BULK CEMENT: Between points and places in South Carolina, under contract with Metromont Materials.

Subsequent to the initiation of this proceeding, the Commission Staff instructed the Applicant to cause to be published a prepared Notice of Filing in certain newspapers of general circulation in the State of South Carolina. The Notice of Filing indicated the nature of the Application and advised all interested parties desiring to participate in the proceeding of the manner and time in which to file the appropriate pleadings. The Notice of Filing was duly published in the State Register.

A Petition to Intervene was timely filed by Santee Carriers, Inc. (the Intervenor).

Pursuant to notice duly given, a hearing was held at the Offices of the Commission on October 3, 1990, the Honorable Marjorie Amos-Frazier presiding. The Applicant was represented by John Beach, Esquire; the Intervenor was represented by Thomas M. Boulware, Esquire; and the Commission Staff was represented by H. Clay Carruth, Staff Counsel.

Testifying on behalf of the Applicant were: Michael J. Rampey of Fountain Inn, South Carolina, Regional Manager of Metromont Materials Corp. of Greenwood, South Carolina; and Eddie P. Carter of Ninety Six, South Carolina, sole proprietor of the Applicant.

Testifying on behalf of the Intervenor were: John T. Gentry of Eutawville, South Carolina, Assistant to the President of Santee Carriers, Inc. of Holly Hill, South Carolina; and Burton W. Lanier of Columbia, South Carolina, Sales Manager for Southern Bulk Haulers, Inc. of Harleyville, South Carolina.

According to R.103-134 2.B. of the Commission's Regulations, S.C. Code Ann., Vol. 26 (1976), as amended, an applicant applying for a certificate to operate as a contract motor carrier may be approved upon a showing that the applicant is fit, willing and able to appropriately perform the proposed service; provided, however, if an intervenor shows or if the Commission determines that the public convenience and necessity is already being served, the Commission may deny the application.

FINDINGS OF FACT

Upon consideration of the information contained in and attached to the Application, and the testimony and exhibits of the witnesses, the Commission finds the following facts:

1. That Eddie P. Carter has experience in the trucking business since 1953, and has, among other things, hauled brick for Southern Brick Company.
2. That the Applicant has base and terminal facilities at, respectively, Ninety Six and Johnston, South Carolina.
3. That the Applicant has South Carolina intrastate motor carrier authority to transport general commodities, with certain restrictions, and has motor carrier authority issued by the Interstate Commerce Commission (ICC) for the States east of the Mississippi River.
4. That the Applicant currently retains 27 or 28 employees of whom 17 to 20 are drivers.
5. That the Applicant currently maintains 22-25 tractors and 75 trailers.
6. That the Applicant hires local people known to it, and administers pre-employment drug tests.
7. That the Applicant experiences low employee turnover.
8. That the Applicant maintains liability insurance coverage with a one million dollar limit of liability and a one million dollar umbrella or excess coverage provision.

9. That the Applicant has hauled brick for the past 10 or 12 years, and block for the past 2 years, for Metromont Materials Corp.

10. That the Applicant currently provides service to Metromont Materials Corp. under a single-source lease agreement, but would rather have its own authority and control its own equipment and drivers.

11. That the losses shown on the Applicant's financial statements for the past three (3) years are substantially the result of accelerated depreciation of equipment.

12. That the Applicant purchased dry bulk cement tanker equipment after being solicited by Metromont Materials Corp. to transport dry bulk cement in interstate commerce from the Atlanta, Georgia area to its facilities in South Carolina.

13. That subsequent to the above, Metromont Materials Corp. ceased purchasing cement from the Atlanta, Georgia area and began purchasing cement from a source at Holly Hill, South Carolina, creating a need for the transportation services of an intrastate licensed motor carrier.

14. That the Applicant's terminal facilities are in close proximity to the cement plant of Metromont Materials Corp., enabling quick response to demands for service; and, that the Applicant often stores loaded tankers on its premises for the convenience of Metromont Materials Corp.

CONCLUSION OF LAW

R.103-134 2.B., supra, imposes upon an applicant the burden of demonstrating that it is fit, willing and able to appropriately perform the proposed motor carrier services. The Regulation imposes upon any intervenor(s) the burden of demonstrating that the public convenience and necessity is already being served by those certificated motor carriers authorized to provide the motor carrier services for which the applicant seeks authority.

Based on the facts found hereinabove, as well as the evidence in the entire record herein, the Commission finds and concludes that the Applicant has demonstrated its fitness, willingness and ability to appropriately perform the proposed motor carrier services, while the Intervenor has not demonstrated that the public convenience and necessity is already being served by it and/or other certificated motor carriers authorized to provide the proposed motor carrier services.

Therefore, the Commission reaches the following conclusions of law:

1. That the Applicant is fit, willing and able to appropriately perform the proposed motor carrier services.
2. That the public convenience and necessity is not already being served as to the motor carrier services proposed in the instant Application.

IT IS THEREFORE ORDERED:

1. That the Application of Eddie P. Carter d/b/a Carter Trucking Company for a Class F Certificate of Public Convenience and Necessity be, and hereby is, approved.
2. That the Applicant file the proper license fees and other information required by S.C. Code Ann., Section 58-23-10 et seq. (1976), as amended, and by R.103-100 through R.103-280 of the Commission's Rules and Regulations for Motor Carriers, S.C. Code Ann., Vol. 26 (1976), as amended, within sixty (60) days of the date of this Order, or within such additional time as may be authorized by the Commission.
3. That upon compliance with S.C. Code Ann., Section 58-23-10, et seq (1976) as amended, and the applicable provisions of R.103-100 through R.103-280 of the Commission's Rules and Regulations for Motor Carriers, S.C. Code Ann., Vol. 26 (1976), as amended, a certificate shall be issued to the Applicant authorizing the motor carrier services granted herein.
4. That prior to compliance with such requirements and receipt of a certificate, the motor carrier services authorized herein may not be provided.

5. That this Order shall remain in full force and effect until further Order of the Commission.

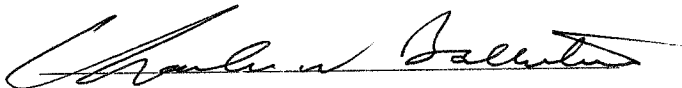
BY ORDER OF THE COMMISSION:



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Chairman

ATTEST:



Executive Director

(SEAL)